

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants	:	Thomas J. Balkin et al.	Confirmation No.:	4164
Serial No.	:	10/757,480	Examiner:	Robert L. NASSER
Filed	:	January 15, 2004	Group Art Unit:	3735
Title	:	METHOD AND SYSTEM FOR PREDICTING HUMAN COGNITIVE PERFORMANCE		

**RESPOSNE TO ELECTION REQUIREMENT**

United States Patent and Trademark Office  
Customer Service Window, Mail Stop Amendment  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

This paper is being filed in response to the Election Requirement mailed on December 26, 2007. This Response is timely filed.

Pursuant to that Election Requirement and 37 C.F.R. §1.143, Applicant elects Species I “drawn to a method of predicting cognitive performance.” Applicants respectfully submit that claims 1-3 and 35 are clearly readable on the selected species. Applicants respectfully submit that claims 23-34 are also readable on the selected species in view of paragraph [0027].

Applicants respectfully submit that the election requirement to elect species based on “predicting cognitive performance” versus “predicting task effectiveness” is flawed, because these are not two different concepts. Cognitive performance and effectiveness are used interchangeably in the patent application, and an example of this is paragraph [0027], which states

A feature of the present invention is that it provides a numerical representation of predicted cognitive performance with an immediate ergonomic and economic advantage, i.e., an indication of productivity or effectiveness of an individual.

The use of "task performance" in claims 23-34 relates to the effectiveness of an individual to perform a task (i.e., the individual's current cognitive level). As such, Applicants respectfully submit that the election requirement is unnecessary.

Applicant respectfully requests that the Examiner withdraw the election requirement and proceed on the merits for all of the pending claims.

Respectfully submitted,  
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